

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-01/10-10
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Health Access Eligibility Unit (HAEU), finding the petitioner's children ineligible for Dr. Dynasaur benefits because the household's income exceeds the income limits for the Dr. Dynasaur program.

The material facts are not in dispute. The issue is whether the Department can count as household income the Social Security benefits received by the children as children of a disabled parent.

FINDINGS OF FACT

1. The petitioner resides with her husband and their two minor children. They constitute a household of four.

2. The petitioner is employed. She earns \$3,913.00 gross income per month. Petitioner's spouse is disabled and receives \$1,250.40 per month from the Social Security

Administration. Each child receives \$313.00 per month from the Social Security Administration.¹

3. The total monthly household income is \$5,789.40. The Department credits petitioner with a \$90.00 monthly earned income disregard. The household's countable income is \$5,699.40; this income exceeds the maximum monthly income allowed under the Dr. Dynasaur program of \$5,538.00 for a four-person household.

4. The petitioner does not believe that the Department should count the Social Security monies paid on behalf of the children.

ORDER

The Department's decision is affirmed.

REASONS

The Vermont Legislature created the Dr. Dynasaur program to extend medical benefits to pregnant women and to minor children. W.A.M. § 5200. Children under the age of eighteen are eligible provided the household's income does not exceed 300% of the Federal Poverty Level (FPL). W.A.M. § 4312.6.

¹Dependent minor children are entitled to child's benefits based upon the earnings record of the insured person who is receiving disability or old age benefits or who has died. 20 C.F.R. § 404.350.

Household eligibility is based upon the size of the household and income. Income includes both earned income and unearned income such as Social Security benefits. W.A.M. §§ 4380 and 4381. In particular, W.A.M. § 4381 includes a provision that the full amount of Social Security benefits is income to the household.

The petitioners argue that they have a fiduciary duty to use the children's benefits solely for their children so that these funds should not be considered available to the household. However, the regulations do not exempt these monies from consideration by the Department regarding the Dr. Dynasaur program.

The Department has accurately calculated the household's eligibility for Dr. Dynasaur. If their income changes, the petitioner can reapply for benefits.

The Department's decision is affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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